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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/583,269	06/16/2006	Richard Arthur Birch	056222-5098	2659

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EXAMINER	
NGUYEN, THUY-AI N	

ART UNIT	PAPER NUMBER
4134	

MAIL DATE	DELIVERY MODE
10/31/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/583,269	BIRCH ET AL.	
	Examiner	Art Unit	
	Thuyai N. Nguyen	4134	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 June 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *06/16/2006*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6, 8-11, and 15-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in Ex parte Wu, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of Ex parte Steigewald, 131 USPQ 74 (Bd. App. 1961); Ex parte Hall, 83 USPQ 38 (Bd. App. 1948); and Ex parte Hasche, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 6 recites the broad recitation "greater than about", and the claims also recites "more preferably greater than" which is the narrower statement of the range/limitation. Claims 8-11 recite the broad

recitation "present in an amount in the range", and the claims also recite "preferably an amount in the range" which is the narrower statement of the range/limitation. Claims 15-16 recite the broad recitation "water content less than", and the claims also recite "more preferably less than" which is the narrower statement of the range/limitation

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 814, 16-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Birch et al. (US. 2003/0180340).

Regarding claim 1, Birch et al. teach a process for the production of particle which comprises a core absorbing perfume and is encapsulated with at least one water soluble material, which is impervious to the said perfume (abstract), wherein the process [0086] comprising:

a) mixing core material and perfume in aqueous solution to produce a slurry solution [0062], and mixing with the aqueous solution of encapsulating material (syrup of sugar, [0089])

b) heating the slurry to reduce the water content [0089],

c) extruding through die [0090], and

d) cutting and producing the product in form of particles [0090].

Regarding claim 2, Birch et al. teach a process of making perfume particles, wherein the temperature of extrusion process is above the glass transition temperature of the encapsulating material [0090], wherein the transition temperature of the prefer non-plasticized material is from 0 to 100 degree of Celsius [0080]. Therefore, the temperature of extrusion process meets the temperature as set forth by the applicant.

Regarding claims 3- 4, Birch et al. teach the process of making perfume particles, wherein the core material comprises a swellable material and organic polymer [0023- 0024].

Regarding claim 8, Birch et al. teach the process of making perfume particles, wherein the water soluble encapsulating material is present in an amount of from 40 to 60 percent by weight of the composition [0081].

Regarding claim 9, Birch et al. teach the process of making perfume particles, wherein the aqueous solution or water is present in an amount of from 0 percent [0084], up to 47 percent in the encapsulating material (example 1, p. 8).

Regarding claim 10, Birch et al. teach the process of making perfume particles, wherein the monomer making the core is present in an amount of from 10 to 40 percent by weight of the monomer mixture [0035], which makes a slurry mixture in the core making process [0062].

Regarding claim 11, Birch et al. teach the process of making perfume particles, wherein the perfume is present in an amount of from 5 to 50 percent by weight of the particle [0053].

Regarding claim 12, Birch et al. teach the process of making perfume particles, wherein the particles comprise pigments and dyes [0082].

Regarding claim 13, Birch et al. teach the process of making perfume particles, wherein the extruded material is cut by the blade to produce particle in desired size [0090].

Regarding claim 14, Birch et al. teach the process of making perfume particles, wherein the slurry in the extruder is heated up to 140 degree of Celsius to remove the excess water (example 9, p. 10).

Regarding claim 16, Birch et al. teach the process of making perfume particles, wherein the extruder is maintained in the range of the temperature from 20 to 140 degree of Celsius (example 9, p. 10).

Regarding claim 17, Birch et al. teach the process producing particles (abstract).

Regarding claim 18, Birch et al. teach incorporating the particles on the dry product or article [0101].

Regarding claim 19, Birch et al. teach the products or articles are laundry product, auto dish- washing powder, auto dish- washing tablets, sheet conditioners, soaps, and granular cleaning composition [0101].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> *(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.*

Claims 5-7, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Birch et al. (US. 2003/0180340).

Regarding claims 5-7, Birch et al. teach the process of making perfume particles with the extrusion process, wherein the particles can be extruded to have a desired size [0090]. Birch et al. do not clearly teach using low shear, size and type of the extruder parameters. Official notices using low shear in pre-heater is well known. At the time of the invention, it would be obvious to one of ordinary skill in the art to use the low shear in pre-heater, size and type of the extruder profile to produce the desired product without decomposing it.

Regarding claim 15, Birch et al. teach the process of making perfume particles with the extrusion process, wherein the slurry is heated to reduce the excess water in the extruder (example 9, p. 10). The experimental modification of this prior art in order to ascertain optimum operating conditions fails to render applicants' claims patentable in the absence of unexpected results. In re Aller, 105 USPQ 233. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to optimize the amount of water reduced during the extrusion to obtain the desired product with the right moisturizing level. A prima facie case of obviousness may be rebutted, however, where the results of the optimizing variable, which is known to be result-effective, are unexpectedly good. In re Boesch and Slaney, 205 USPQ 215.

Correspondence

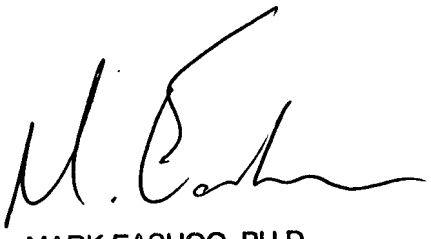
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuyai N. Nguyen whose telephone number is 571-270-3294. The examiner can normally be reached on Monday-Friday: 8:30 a.m. - 5:00 p.m. eastern time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Eashoo can be reached on 571-272-1197. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

October 17, 2007

Patent Examiner
Thuy-Ai N. Nguyen



MARK EASHOO, PH.D.
SUPERVISORY PATENT EXAMINER

30/Oct/07